

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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TRISURA INSURANCE COMPANY,

Plaintiff,

–against–

Civil Action No. 1:23-cv-11053-GWH-JW

BIGHORN CONSTRUCTION AND  
RECLAMATION, LLC; BIGHORN  
INVESTMENTS AND PROPERTIES, LLC;  
BIGHORN SAND & GRAVEL LLC;  
BRIDGELINK COMMODITIES LLC;  
BRIDGELINK ENGINEERING LLC;  
BRIDGELINK INVESTMENTS, LLC;  
BRIDGELINK RENEWABLE ENERGY  
DEVELOPMENT LLC; BRIDGELINK  
RENEWABLE ENERGY INVESTMENTS LLC;  
INTERMOUNTAIN ELECTRIC SERVICE, INC.;  
COLE WAYNE JOHNSON; CORD HENRY  
JOHNSON; CASSIE HAMILTON,

Defendants.

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STATE OF NEW YORK     )  
                                  ).ss.:  
COUNTY OF NEW YORK )

**AFFIRMATION OF SERVICE  
ON REGISTERED AGENT**

DENNIS O’NEIL COWING, declares under penalty of perjury pursuant to 28  
U.S.C. § 1746 that the following is true and correct.

1. I am an attorney duly admitted to practice law before the courts of the State of New  
York and this Court. I am Of Counsel to the law firm McElroy, Deutsch, Mulvaney & Carpenter,  
LLP, attorneys for Plaintiff, Trisura Insurance Company (“Trisura”).

2. On February 27, 2024, I cause to be delivered into the care, custody and control of Federal Express for overnight delivery a FedEx Envelope properly addressed to:

Corporation Service Company  
1821 Logan Avenue  
Cheyenne, Wyoming 82001

bearing FedEx Tracking No.: 775334331571. (A copy of the FedEx Transaction Record of that delivery accompanies this Affirmation as Exhibit “1.”) The contents of that FedEx Envelope were as follows:

3. Your affirmitant’s February 27, 2024 cover letter addressed to Corporate Service Company (“CSC”) stating that the enclosed Summons and Amended Complaint were being served on it as Registered Agent for Intermountain Electric Service Inc. (“Intermountain”) (A copy of that letter accompanies this Affirmation as Exhibit “2.”)

4. As explained in my cover letter, enclosed with the letter was a copy of the State of Wyoming, Secretary of State, Filing Information, identifying Intermountain as the intended defendant recipient of the Summons, Amended Complaint, Civil Cover Sheet and Amended or Supplemental Rule 7.1 Statement (“Summons and Amended Complaint”) for service on the intended recipient Intermountain and that CSC was the Registered Agent of Intermountain according to the Wyoming Secretary of State. (A copy of the Wyoming Secretary of State’s Filing Information accompanies this Affirmation as Exhibit “2-A.”)

5. Besides the cover letter and Wyoming Secretary of State Filing Information, defendant Intermountain was also clearly indicated as the intended recipient of the service in the “Rider to Summons” by my drawing a blue arrow pointing at the intended recipient defendant Intermountain. (A copy of the Summons and Amended Complaint that was enclosed with my cover letter accompanies this Affirmation as Exhibit “2-B.” See Exhibit 2-B, page 3 of 4 of the filed

Summons with the heading “Rider to Summons” and the blue arrow pointing at Intermountain.) As also explained in my cover letter, a copy of the Summons and Amended Complaint was enclosed as service on CSC as Registered Agent for Intermountain, and stated that Intermountain was identified in the “See Rider to Summons for other Defendants.”

6. On February 28, 2023, at 10:08 a.m., the FedEx Envelope, bearing FedEx Tracking No.: 775334331571, containing my aforesaid cover letter and accompanying documents (Exhibit 2, 2-A and 2-B) were delivered to Corporation Service Company at 1821 Logan Avenue, Cheyenne, Wyoming 82001 and signed for by A. Manzanitas, Receptionist/Front Desk. (A copy of the FedEx proof-of delivery documentation to CSC office accompanies this Affirmation as Exhibit “3.”)

7. The reason for this service was because Plaintiff understood that service had already been made on CSC as Registered Agents in Wyoming for Intermountain on February 6, 2024. (A copy of an Affidavit of Service on Intermountain c/o CSC on Isaiah Rose, the Assistant of the authorized Agent authorized to accept service thereof, personally, is contained in Exhibit “4.”) Sufficient time had passed such that the Affidavit of Service was uploaded into the Docket for that service on Thursday, February 22, 2024 (Doc. No.: 13), in anticipation of making application for a Clerk’s Certificate of Default a few days after Intermountain’s answer was due, February 27, 2024, as shown in entry 13 on the Docket for this action. (A copy of the Docket page showing the filing of that Affidavit of Service on February 25, 2024 follows in Exhibit “4.”)

8. On or about February 26, 2024, however, I received an internal email from clerical personnel in the Firm that attached a copy of a letter received on or about that day from CSC advising that the service of process had been “rejected” because “The legal process MUST specifically indicate which party is being served. Sufficient copies must be furnished so that we

may transmit one copy for each defendant if multiple parties are being served.” (A copy of CSC’s rejection letter accompanies this Affirmation as Exhibit “5,” emphasis in original.) Based on information previously obtained with respect to the entities named as defendants, CSC was a registered agent for only one, Intermountain. All other entities were represented by different registered agents. However, despite the fact that it was only a registered agent for that one defendant, Intermountain, CSC rejected service.

9. After service had been rejected, I spoke with a representative of CSC about the rejection. I was informed that so long as I clearly identified the defendant intended to be served through CSC, CSC would forward the service papers to their customer. I was also told that CSC accepted papers for service of process delivered to its office that was listed as the customer’s registered agent by Federal Express.

10. Based on that representation, I prepared the cover letter (Exhibit 2) with a copy of the Wyoming Secretary of States Filing Information for Intermountain showing CSC office at 1821 Logan Avenue, Cheyenne, Wyoming 82001 as Intermountain’s register agent (Exhibit 2-A), together with the service documents accompanying this Affirmation as Exhibit 2-B and sent same for delivery on CSC office in Cheyenne, Wyoming as identified in the Filing Information maintained by the Wyoming Secretary of State. Thereupon, service was made on CSC as Registered Agent of for the Defendant, Intermountain Electric Service, Inc.

I declare under penalty of perjury that the foregoing is true and accurate to the best of my knowledge, information and belief, that the amount claimed is justly due to plaintiff, and that no part thereof has been paid.

Dated: New York, New York  
March 9, 2024

/s/ Dennis O'Neil Cowling  
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